



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,841	10/12/2001	Rory Smith	476-2059	3645
23644 7590 11/19/2009 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER NGO, NGUYEN HOANG				
ART UNIT 2473		PAPER NUMBER		
NOTIFICATION DATE 11/19/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* RORY SMITH, JACQUELINE HENDRON  
and IVOR REA

---

Application No. 09/975,841  
Technology Center 2400

---

Mailed: November 18, 2009

---

Before DELORES LOWE, *Review Team Paralegal*  
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on November 9, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed July 2, 2009 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified. The appellants do not identify Claims 10 and 21 in the Appeal Brief filed July 2, 2009.

A Supplemental Appeal Brief is required for the Grounds of Rejection to be Reviewed on Appeal.

CONCLUSION

Accordingly, it is

ORDERED that the application is electronically returned to the Examiner:

- 1) to hold the Appeal Brief filed on July 2, 2009 defective;
- 2) notify Appellants to file a Supplemental Appeal Brief with the correct information for the Grounds of Rejection,

- 3) consider the Supplemental Appeal Brief and if it is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplemental Appeal Brief; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

dal

BARNES & THORNBURG LLP  
P.O. BOX 2786  
CHICAGO IL 60690-2786